

**R305-3. Emergency Meeting.**

R305-3-1. Purpose.

R305-3-2. Authority.

R305-3-3. Procedure.

**R305-3-1. Purpose.**

The Department of Environmental Quality and the Boards established within the Department in accordance with Section 19-1-106 recognize that there may be times when, due to the necessity of considering matters of an emergency or urgent nature, the public provisions of Sections 52-4-6(1), (2), and (3) cannot be met. Pursuant to Sections 52-4-6(5), under such circumstance those notice requirements need not be followed but rather the best notice practicable shall be given.

**R305-3-2. Authority.**

This rule is enacted under the authority of Sections 63-46a-3 and 19-1-201(2)(k) and 202(1)(a).

**R305-3-3. Procedure.**

- (1) No emergency meeting shall be held unless an attempt has been made to notify all members of the Board of the proposed meeting and a majority of the convened Board votes in the affirmative to hold such an emergency meeting.
- (2) Public notice of each emergency meeting shall be provided as soon as practicable and shall include at minimum the following:
  - (a) The agenda and notice of the meeting shall be posted in writing at the offices of the division or department.
  - (b) If members of the Board may appear electronically or telephonically, each such notice shall specify the anchor location for the meeting at which all interested persons and members of the public may attend, monitor, and participate in the open portions of the meeting;
  - (c) Notice to the Board members shall advise how they may participate telephonically or electronically and be counted as present for all purposes, including the determination of a quorum;
  - (d) Written, electronic or telephonic notice shall be provided to at least one newspaper of general circulation within the state and at least one local media correspondent.
- (3) If one or more members of the Board appear electronically or telephonically, the procedures governing electronic meetings shall be followed, except for the notice requirement which shall be governed by these provisions.
- (4) In convening the meeting and voting in the affirmative to hold such an emergency meeting, the Board shall affirmatively state and find what unforeseen circumstances have rendered it necessary for the Board to hold an emergency meeting to consider matters of an emergency or urgent nature such that the ordinary public notice of meetings provisions of Section 52-4-6 could not be followed.

**R305-2. Electronic Meeting.**

R305-2-1. Purpose.

R305-2-2. Authority.

R305-2-3. Procedure.

**R305-2-1. Purpose.**

Section 52-4-7.8 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting meetings of the Department of Environmental Quality and the Boards established within the Department in accordance with Section 19-1-106.

**R305-2-2. Authority.**

This rule is established under the authority of Sections 19-1-201(2)(k) and 202(1)(a).

**R305-2-3. Procedure.**

The following provisions govern any meeting at which one or more Board members appear telephonically or electronically pursuant to Section 52-4-7.8.

- (1) If one or more members of a Board may participate electronically or telephonically, public notice of the meeting shall so indicate. In addition the notice shall specify the anchor location where the members of the Board not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.
- (2) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided to at least one newspaper of general circulation within the state and to a local media correspondent. These notices shall be provided at least 24 hours before the meeting.
- (3) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board Member may participate in the meeting electronically or telephonically.
- (4) When notice is given of the possibility of a Board member appearing electronically or telephonically, any board member may do so and shall be counted as present for the purposes of a quorum and may fully participate and vote on any matter coming before the Board. At the commencement of the meeting, or at such a time as any Board member initially appears electronically or telephonically, the chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the Board who are not at the physical location of the meeting shall be confirmed by the Chair.
- (5) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Environmental Quality, 160 North 1950 West, Salt Lake City, Utah 84116. The anchor location is the physical location from which the electronic meeting originates or from where the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

## **Proposed Re-adoption of Rules R305-2 and R305-3 Governing Electronic Meetings and Emergency Meetings**

**Background:** In 2002, each DEQ Board adopted the following two rules, which were then codified in the general DEQ rules, rather than in each Division's rules. The rules are now up for reauthorization.

**Electronic Meetings:** Utah Code Annot. §52-4-207 (previously § 52-4-7.8) requires agencies to adopt rules governing electronic meetings before they can hold such meetings. Electronic meetings include those where some board members meet in person, but others – or other meeting participants -- participate by telephone. R305-2 was adopted to meet the requirements of this statute.

**Staff Recommendation:** The Attorney General's Office, on behalf of the Executive Secretary, recommends reauthorization of this rule in order to allow the agency to continue holding electronic meetings. It is also requested that the Board approve a non-substantive change to the rule to update the statutory reference, as described above.

**Emergency meetings:** Utah Code Annot. §52-4-202(5) (previously §52-4-6) allows boards to hold emergency meetings to address urgent issues, provided that certain procedural requirements have been met, such as making best efforts to notify the public and board members. This rule was originally recommended in order to define appropriate best efforts to make these notifications.

**Staff Recommendation:** DEQ's advisors from the Attorney General's Office recommend allowing this rule to sunset. The rule imposes additional requirements not included in the statute for holding an emergency meeting. Although it is likely that the agency will ordinarily meet all of the requirements of this rule, an agency responding to a genuine emergency should not be hamstrung by requirements that are not imposed the statute.